

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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**LOUIS PICCOLO, individually and on behalf of  
those individuals similarly situated**

**Plaintiff,**  
**-against-**

**TOP SHELF PROVISIONS CO. INC., RICH  
DAHLEM and ANTHONY CICCARI**

**Defendants**  
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X

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X

**16-CV-06930 (GRB)**

**DEFENDANTS' PROPOSED  
VERDICT FORM**

With respect to each of the causes of action, as outlined below, answer the following questions:

**I. Fair Labor Standards Act & New York Labor Law**

A. Did Defendants earn an annual dollar volume of sales or business of at least \$500,000.00 in the following years:

2013?

\_\_\_\_\_ Yes

\_\_\_\_\_ No

2014?

\_\_\_\_\_ Yes

\_\_\_\_\_ No

2015?

\_\_\_\_\_ Yes

\_\_\_\_\_ No

2016?

\_\_\_\_\_ Yes

\_\_\_\_\_ No

B. Were Plaintiffs each personally engaged in interstate commerce or in the production of goods for interstate commerce?

<b>Plaintiff</b>	<b>Yes</b>	<b>No</b>
Piccolo		
Sudlow		

C. Did Defendants have the power to hire and fire Plaintiffs Piccolo and Sudlow? Please use the chart below to answer for each Defendant.

Piccolo

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Top Shelf Provisions Co. Inc.		
Rich Dahlem		
Anthony Cicciari		

Sudlow

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Top Shelf Provisions Co. Inc.		
Rich Dahlem		
Anthony Cicciari		

D. Did Defendants supervise and control Plaintiffs Piccolo and Sudlow's work schedules or other work conditions? Please use the chart below to answer for each Defendant.

Piccolo

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Top Shelf Provisions Co. Inc.		
Rich Dahlem		
Anthony Cicciari		

Sudlow

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Top Shelf Provisions Co. Inc.		
Rich Dahlem		
Anthony Cicciari		

E. Did Defendants determine Plaintiffs' Piccolo's and Sudlow's rate and method of payment? Please use the chart below to answer for each Defendant.

Piccolo

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Top Shelf Provisions Co. Inc.		
Rich Dahlem		
Anthony Cicciari		

Sudlow

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Top Shelf Provisions Co. Inc.		
Rich Dahlem		
Anthony Cicciari		

F. Did Defendants maintain employment records for Plaintiffs Piccolo and Sudlow?  
Please use the chart below to answer for each Defendant.

Piccolo

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Top Shelf Provisions Co. Inc.		
Rich Dahlem		
Anthony Ciccari		

Sudlow

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Top Shelf Provisions Co. Inc.		
Rich Dahlem		
Anthony Ciccari		

G. Were Defendants the employers of Plaintiffs Piccolo and Sudlow? Please use the chart below to answer for each Defendant.

Piccolo

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Top Shelf Provisions Co. Inc.		
Rich Dahlem		
Anthony Ciccari		

Sudlow

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Top Shelf Provisions Co. Inc.		
Rich Dahlem		
Anthony Ciccari		

H. Were Plaintiffs paid for all hours worked by Defendants? Please use the chart below to answer for each Plaintiff.

<b>Plaintiff</b>	<b>Yes</b>	<b>No</b>
Piccolo		
Sudlow		

I. What hourly rates were Plaintiffs Piccolo and Sudlow paid by Defendants? Please use the chart below to answer for each Plaintiff.

<b>Plaintiff</b>	<b>Regular Rate</b>	<b>Overtime Rate</b>	<b>Yes/No</b>
Piccolo	\$25.64	\$38.47	
	\$18.20	\$27.30	
<i>(other hourly rate)</i>	\$_____	\$_____	
Sudlow	\$13.00	\$19.50	
	\$8.38	\$12.58	
<i>(other hourly rate)</i>	\$_____	\$_____	

J. What was the average amount of hours that Plaintiffs Piccolo and Sudlow worked for Defendants? Please use the chart below to answer for each Plaintiff.

<b>Plaintiff</b>	<b>Average Hours Worked</b>	<b>Yes/No</b>
Piccolo	50	
	65	
<i>(other average hours)</i>	_____	
Sudlow	50	
	65	
<i>(other average hours)</i>	_____	

K. Were Plaintiffs highly compensated employees? Please use the chart below to answer for each Plaintiff.

<b>Plaintiff</b>	<b>Yes</b>	<b>No</b>
Piccolo		
Sudlow		

L. Were Plaintiffs executive employees? Please use the chart below to answer for each Plaintiff.

<b>Plaintiff</b>	<b>Yes</b>	<b>No</b>
Piccolo		
Sudlow		

M. Were Plaintiffs outside salespeople? Please use the chart below to answer for each Plaintiff.

<b>Plaintiff</b>	<b>Yes</b>	<b>No</b>
Piccolo		
Sudlow		

N. Did Defendants have a good faith basis for how they paid Plaintiffs?

\_\_\_\_\_ Yes \_\_\_\_\_ No

O. Were Defendants obligated to provide annual wage notices to Plaintiffs Piccolo and Sudlow? Please use the chart below to answer for each Defendant.

Piccolo

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Top Shelf Provisions Co. Inc.		
Rich Dahlem		
Anthony Cicciari		

Sudlow

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Top Shelf Provisions Co. Inc.		
Rich Dahlem		
Anthony Cicciari		

P. Were Defendants obligated to provide a wage statement to Plaintiffs Piccolo and Sudlow for every pay period Defendants issued Plaintiffs Piccolo and Sudlow compensation? Please use the chart below to answer for each Defendant.

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Top Shelf Provisions Co. Inc.		
Rich Dahlem		
Anthony Cicciari		

Q. Was Defendants' obligation to provide notice obviated because Plaintiffs were properly paid? Please use the chart below to answer for each Plaintiff.

<b>Plaintiff</b>	<b>Yes</b>	<b>No</b>
Piccolo		
Sudlow		

\_\_\_\_\_  
**FOREPERSON**

\_\_\_\_\_  
**DATE**

Dated: Lake Success, New York  
November 2, 2018

Respectfully submitted,

**MILMAN LABUDA LAW GROUP PLLC**

\_\_\_\_\_/s\_\_\_\_\_  
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